

BQC-94-064a

Date: December 31, 1994

To: Rural Health Clinics

RHC 8

From: Judy Fryback, Director
Bureau of Quality Compliance

Subject: Health Care Financing, Regional Guidance on Rural Health Clinic Issues

Attached is a copy of Health Care Financing Administration, Regional Office program letter number 94-21. The letter discusses the relationship between the Rural Health Clinic and the staff, the definition of rural area, physician responsibilities, and the effective and expiration dates of the staffing requirement waivers.

Please share this information with appropriate staff. Questions regarding this correspondence should be forwarded to Stephen D. Schlough, Chief, Hospital and Health Services Section, Bureau of Quality Compliance, or telephone him at (608) 266-3878.

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Attachment

Department of Health & Human Services
Health Care Financing Administration
Region V
105 West Adams Street
15th Floor
Chicago, Illinois 60603-6201

Refer to: CO22

August 1994

Division of Health Standards and Quality Regional Program Letter No. 94-21

Subject: Rural Health Clinic (RHC) Issues

The purpose of this program letter is to provide guidance on several RHC issues.

Relationship of the RHC and Its Staff

The regulation at 42 CFR 491.8(a) precludes RHCs from utilizing contract nurse practitioners, physician assistants and nurse mid-wives as part of the RHC's staff. The aforementioned disciplines must be either owners or employees of the RHC.

Definition of Rural Area

Inquiries indicate that there is some confusion regarding the basic rural location requirement at 42 CFR 491.5(c). Section 1861 (aa)(2) of the Social Security Act (the Act) requires that an RHC must be located in an area that is not an urbanized area as defined by the Bureau of the Census. The Bureau of the Census has a definition of "urban and rural residence" and a definition of "urbanized area." The definition of "urbanized area" is the definition that must be used when determining if a facility meets the RHC location requirement.

Physician Responsibilities

The regulation at 42 CFR 491.8(b)(2) requires, in part, that the physician staff member of the RHC is present at the RHC at least once in every 2 week period to provide the medical direction, medical care services, consultation and supervision described in 42 CFR 491.8(b)(1), physician responsibilities. A recent question is whether this regulation requires the RHC staff physician to provide medical care services each time he/she is present at the RHC. Whether the physician carries out each of these required responsibilities each time he/she is present in the RHC depends on the needs of the clinic's staff and the clinic's patients on the visit date. If the RHC physician does not provide medical care services to the patients of the RHC during the required periodic visit to the RHC, this should not necessarily result in a finding that the physician is non-compliant with 42 CFR 491.8(b)(1)(iii) for not performing his/her responsibilities. It is possible that on the visit date there were no RHC patients that required the medical care services of the physician.

The regulation at 42 CFR 491.9(b) requires that the RHC health care services are furnished in accordance with appropriate written policies which include guidelines for the medical management of health problems which, in turn, include the conditions requiring medical consultation and/or patient referral. Surveyors should determine if the RHC's policies include these guidelines and if the RHC follows them to ensure that patients who require medical care services are scheduled to see the physician, either at the

RHC, the physician's office or another health care facility based on the patient's medical condition.

Effective and Expiration Dates of the Staffing Requirement Waivers

Regional Program Letter 91-46, dated December 1991, implementing the 1-year waiver provision in section 1861(aa)(7) of the Act, requested the State agencies to use the date the regional office (RO) approves the waiver as the effective date of the 1-year waiver period. Although the effective date of a waiver of the staffing requirement may not be any earlier than the date the RO approved it, the effective date of a waiver submitted with a facility's application to participate in the Medicare program may be made prospective to coincide with the effective date of the RHC's participation in the Medicare program.

If a participating RHC anticipates the loss of required staff and submits a request for a waiver prior to the date the staff person leaves, and the RO approves the waiver prior to that date, the effective date of the waiver may be made prospective to the date the required staff person leaves the RHC.

If an RHC which has been granted a waiver employs the required staff member subsequent to the effective date of the waiver, the expiration date of the waiver is the effective date of employment of the staff member.

If you have further questions about these issues, please contact your principal program representative.

/s/ Cheryl A. Harris
Acting Branch Chief
Survey & Certification Operations Branch